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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------|------------------|
| 10/601,470  | 06/23/2003  | Kimiya Ikushima      | 10407-53US<br>(A3040MT-US1) | 7607             |
| 570   | 7590        | 02/23/2004           | EXAMINER                    |                  |
| AKIN GUMP STRAUSS HAUER & FELD L.L.P.<br>ONE COMMERCE SQUARE<br>2005 MARKET STREET, SUITE 2200<br>PHILADELPHIA, PA 19103-7013 |             |                      | LEE, CALVIN                 |                  |
|   |             | ART UNIT             | PAPER NUMBER                |                  |
|   |             |                      | 2825                        |                  |

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |   |
|------------------------------|------------------------|---------------------|---|
|                              | 10/601,470             | IKUSHIMA ET AL.     | / |
| Examiner                     | Art Unit               |                     |   |
| Lee Calvin                   | 2825                   |                     |   |

-- Th MAILING DATE of this communication app ars on th cover she t with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) \_\_\_\_\_ is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) 1-31 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_\_  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## OFFICE ACTION

### *Election/Restriction*

1. Claims 1-31 are pending in this application.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

(I) Claims 27-30, drawn to a semiconductor device having an insulating layer recessed into a substrate, classified in class 257, subclass 647.

(II) Claims 1-26 and 31, drawn to a method for fabricating an electronic device including an infrared sensor, classified in class 438, subclass 81.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as a flat panel display and a method of fabricating the flat panel display, respectively. The inventions are distinct if either or both of the following can be shown: (1) that both the thin film transistor and the capacitor correspond to the black matrix or (2) that a fabricating method of a flat panel display having a thin film transistor that corresponds just to a black matrix (MPEP § 806.05(f)). In the instant case, unpatentability of the group I invention would not necessarily imply unpatentability of the group II invention, since the process of making a semiconductor feature of the group II invention could be applied using other device materially different than that of the group I invention. For example, a thin film structure can be formed in many different methods including the claimed method of forming a second opening that reaches a provisional cavity thru an etch stopper and expanding into a final cavity. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the fields of search are not coextensive. Therefore, separate examination would be required and restriction for examination purposes as indicated is proper.

3. Applicant is advised that the reply to this requirement to be completed must include an election of the invention to be examined even though the requirement is traversed (37CFR 1.143)

Any inquiry concerning this communication from the Examiner should be directed to *Calvin Lee* at (571) 272-1896 from 7:00 to 17:00 (Monday-Thursday). If attempts to reach the examiner by telephone are unsuccessful, Art Unit 2825's Supervisory Patent Examiner *Matthew Smith* can be reached at (571) 272-1907

Any inquiry relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0596. The fax phones are (703) 872-9318 for regular communications and (703) 872-9319 for After-Final communications.

*Calvin Lee*  
Calvin Lee  
Patent Examiner